



Patent
Attorney Docket No. 032,290-112

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

FOERSTER et al.

Serial No.: 10/734,671

Filed: December 12, 2003

For: METHODS AND DEVICES FOR
DEFINING AND MARKING TISSUE

Group Art Unit: 3736

Examiner: Anuradha Roy

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with 37 CFR §§ 1.97 and 1.98, the items identified in this Information Disclosure Statement ("IDS") are brought to the attention of the Office. The items are listed on the attached form PTO-SB/08. Applicants respectfully request that the Examiner review these Form PTO/SB/08, initial the left-most column, and return initialed copies of the forms to the applicants.

The items identified in this IDS may or may not be "material" pursuant to 37 CFR § 1.56. The submission thereof by Applicant is not to be construed as an admission that any such patent, publication or other information referred to therein is material or considered to be material (37 CFR § 1.97(h)), or even qualifies as "prior art" under 35 USC § 102 with respect to this invention unless specifically designated by Applicant as such.

INFORMATION DISCLOSURE STATEMENT FILING PROVISION:

☐ This IDS is believed to be timely in that it is being submitted under 37 CFR § 1.97(b), that is (1) within three months of the filing date of the application, which is not a continued prosecution application filed under § 1.53(d); or (2) within three months of entry of the national stage as set forth

CERTIFICATE OF MAILING (37 C.F.R. §1.8)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class mail in an envelope addressed to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

February 27, 2007

Date of Deposit

NBI:702035.1

Cynthia B. Pacheco
Cynthia B. Pacheco

03/06/2007 MWDLG1 00000062 502862 10734671
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in 37 CFR § 1.491; or (3) before the mailing of a first Office action on the merits; or (4) before the mailing of a first Office action after filing a request for continued examination under § 1.114. Thus, no fee is required.

☐ However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and charge the fee due under 37 CFR § 1.17(p) to the deposit account referenced below.

☐ However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and a statement under 37 CFR § 1.97(e) is included below, thus no fee is required.

☒ This IDS is being submitted under 37 CFR § 1.97(c), that is after mailing of a first Office action on the merits, but before a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311.

☒ The fee due under 37 CFR § 1.17(p) is submitted herewith.

☐ A statement under 37 CFR § 1.97(e) is included below, thus no fee is required. In the event that this IDS is not received before a Final Action or a Notice of Allowance, then Applicant respectfully requests that the Office consider the filing of these papers to be submitted under 37 CFR § 1.97(d) and charge the fee due under 37 CFR § 1.17(p) to the deposit account below.

☐ This IDS is being submitted under 37 CFR § 1.97(d), that is after a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR § 1.311, but before payment of the issue fee. A statement under 37 CFR § 1.97(e) is included below. The fee due under 37 CFR § 1.17(p) is submitted herewith.

Statement Under 37 CFR § 1.97(e):

☐ Each item contained in this IDS was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this IDS.

☐ No item contained in this IDS was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing this statement after making reasonable inquiry, no item of information contained in this IDS was known to any individual designated in 37 CFR § 1.56(c) more than three months prior to the filing of this IDS.

PAYMENT AND/OR AUTHORIZATION TO CHARGE FEES:

- ☐ A check in the amount of \$180.00 is enclosed for the above fee(s).
☒ Please charge \$180.00 to Deposit Account No. **50-2862** for the above fee(s).

The Commissioner is authorized to charge any fees required by the filing of these papers, and to credit any overpayment to O'Melveny and Myers' Deposit Account No. **50-2862**.

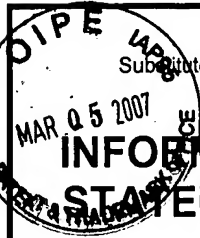
Respectfully submitted,

O'MELVENY & MYERS LLP

Dated: February 27, 2007

By: Diane K. Wong
Diane Wong
Reg. No. 54,550
Attorneys for Applicant

DKW/
O'MELVENY & MYERS LLP
610 Newport Center Drive, 17th Floor
Newport Beach, CA 92660-6429
(949) 760-9600

 <p>Substitute for form 1449A-PTO</p> <h2 style="text-align: center;">INFORMATION DISCLOSURE STATEMENT BY APPLICANT</h2> <p style="text-align: center;">(Use as many sheets as necessary)</p>				Complete if Known	
				Application No.	10/734,671
				Filing Date	December 12, 2003
				First Named Inventor	FOERSTER
				Art Unit	3736
				Examiner Name	Anuradha Roy
Sheet	1	of	1	Attorney Docket No.	032,290-112

U.S. PATENT DOCUMENTS					
Examiner Initials	Cite No. ¹	Document No.	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ² (if known)			
	1.	US-4,875,478	10/1989	Chen	
	2.	US-5,024,727	08/1991	Campbell	
	3.	US-5,342,283	08/1994	Kornberg	

Examiner Signature	Date Considered	
<p>*Examiner: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. 1 Applicant's unique citation designation number (optional). 2 See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. 3 Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). 4 For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. 5 Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. 6 Applicant is to place a check mark here if English language Translation is attached.</p> <p>This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.</p>		
NBI:702039.1		PTO/SB-08a (08 03) American LegalNet Inc. www.USCourtForms.com

Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).		Complete If Known	
<div style="position: relative; width: 100px; height: 100px; border: 2px solid black; border-radius: 50%; margin: 0 auto;"> <div style="position: absolute; top: 0; left: 0; width: 100%; height: 100%; background: radial-gradient(circle, transparent 1%, black 1%); background-size: 4px 4px;"></div> <div style="position: absolute; top: 50%; left: 50%; transform: translate(-50%, -50%); font-weight: bold; font-size: 24px;">FEE TRANSMITTAL</div> <div style="position: absolute; top: 10%; left: 10%; font-weight: bold; font-size: 12px;">MAR 05 2007</div> </div>		Application Number	10/734,671
		Filing Date	December 12, 2003
		First Named Inventor	FOERSTER
		Examiner Name	Anuradha Roy
		Art Unit	3736
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Attorney Docket No.	032,290-112
TOTAL AMOUNT OF PAYMENT		(\$180)	

METHOD OF PAYMENT (check all that apply)

☐ Check
 ☐ Credit Card
 ☐ Money Order
 ☐ None
 ☐ Other (please identify): _____

☒ Deposit Account
 Deposit Account Number: 50-2862
 Deposit Account Name: O'MELVENY & MYERS LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below
 ☐ Charge fee(s) indicated below, except for the filing fee
☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17
 ☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180
Total Claims		
- 20 or HP = _____ x _____ = _____		
HP = highest number of total claims paid for, if greater than 20		
Indep. Claims		
- 3 or HP = <u>0</u> x _____ = _____		
HP = highest number of independent claims paid for, if greater than 3		

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets _____ Extra Sheets _____ Number of each additional 50 or fraction thereof _____ Fee (\$)
 - 100 = 0 /50= 0 (round up to a whole number) x _____ = _____ Fee Paid (\$)

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)
 Other (e.g., late filing surcharge): Information Disclosure Statement _____ Fee Paid (\$) 180

SUBMITTED BY			
Signature	<i>Diane K. Wong</i>	Registration No. 54,550 (Attorney/Agent)	Telephone (949) 760-9600
Name (Print/Type)	Diane K. Wong		Date February 27, 2007

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.